

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MARIA QUINTERO,

Plaintiff,

vs.

ALLSTATE VEHICLE AND PROPERTY
INSURANCE COMPANY,

Defendant.

§
§
§
§
§
§
§
§
§
§

SA-19-CV-00572-FB

ORDER

Before the Court in the above-styled cause of action is Defendant Allstate Vehicle and Property Insurance Company's Motion to Strike and Exclude Plaintiff's Experts [#31]. By its motion, Defendant asks the Court to strike and exclude Plaintiff's expert witnesses Jamie Wesselski, Mike Iacino, and Damon Devine due to Plaintiff's failure to properly designate these experts. The record reflects that Plaintiff failed to file her designation of experts with this Court, as required under the Court's Scheduling Order [#23], but instead served on Defendant "Plaintiff's Disclosure of Expert Testimony Pursuant to Fed. R. Civ. P. 26." (Ex. A [#31-1].) This filing indicates that Plaintiff purported to designate Jamie Wesselski as an expert witness in this case. (*Id.* at 1.) However, this filing did not include the materials required under Rule 26(a)(2)(B), such as Wesselski's written report. With respect to Mike Iacino and Damon Devine, Plaintiff merely lists these witnesses as nonretained experts without providing the anticipated subject matter covered by their testimony as required by Rule 26(a)(2)(C).

Defendant filed its motion on November 7, 2019, making any response to the motion due on or before November 14, 2019. *See* Loc. R. CV-7(e) (responses to nondispositive motions due within seven days of motion's filing). To date, Plaintiff has not filed a response to the motion.

Pursuant to Local Rule CV-7(e), if there is no response filed within the time period prescribed by the rules, the court may grant the motion as unopposed. Accordingly, the Court will grant the motion as unopposed and prohibit Plaintiff's experts from testifying at trial.

IT IS THEREFORE ORDERED that Defendant Allstate Vehicle and Property Insurance Company's Motion to Strike and Exclude Plaintiff's Experts [#31] is **GRANTED** as unopposed.

IT IS FURTHER ORDERED that Plaintiff's retained expert James Wesselski and non-retained experts Mike Iacino and Damon Devine are prohibited from testifying at trial as experts because Plaintiff failed to properly designate the experts pursuant to the Court's Scheduling Order and the Federal Rules of Civil Procedure and failed to respond to Defendant's motion.

SIGNED this 25th day of November, 2019.



ELIZABETH S. ("BETSY") CHESTNEY
UNITED STATES MAGISTRATE JUDGE